

**Tennessee Board of Dentistry  
Minutes**

**Date:** May 12-13, 2005

**Location:** Cumberland Room  
Ground Floor, Cordell Hull Building  
425 Fifth Avenue, North  
Nashville, TN 37247-1010

**Members Present:** Eben A. DeArmond, Jr., D.S.S. - President  
John M. Douglass, Jr., D.D.S. - Vice President  
Harold L. Fitts, D.D.S. - Secretary/Treasury  
Beth A. Casey, R.D.H.  
Jeffery M. Clark, D.D.S.  
Betty Gail Fox, R.D.A.  
Mike Tabor, D.D.S.  
Joe C. Greer, D.D.S.

**Staff Present:** Paul David, Board Director  
Dea Smith, Board Manager  
Tammy M. Roehrich, Board Administrator  
Robbie Bell, Director, Health Related Boards  
Juanita Presley, Assistant General Counsel and Advisory Attorney  
Jerry Kosten, Regulations Manager  
Tamanna Qureshi, Assistant General Counsel  
Thomas Miller, Assistant General Counsel  
Andrae Crismon, Assistant General Counsel

**Administrative Staff:** Steve R. Darnell, Administrative Law Judge  
Elizabeth Miller, Court Reporter

**May 12, 2005**

**Conflict of Interest Policy**

Dr. DeArmond requested the Board members review the Conflict of Interest Policy, which was included in the notebooks. Ms. Presley explained the new Conflict of Interest Policy. She also explained that a new Conflict of Interest Policy would need to be signed by each member of the Board. All members present signed the Conflict of Interest Policy.

**Approval of Minutes**

After review, Ms. Casey noted that the president of SRTA's name was misspelled in the minutes. A motion was made by Dr. Fitts and seconded by Dr. Tabor to accept the minutes with the change. All present voted in the affirmative to approve the minutes.

**New Legislation**

Jerry Kosten discussed the legislation which will affect the Health Related Boards and when they were signed. The following bills were signed: Public Chapter 12, Public Chapter 113, and Public Chapter 118. Ms. Robbie Bell discussed the proposed law change concerning the controlled substance database and how it would affect

the Health Related Boards. Dr. Clark asked if the State could use the Federal Database for the controlled substance. Ms. Bell explained that they have two different reasons for being in place and what the differences are. She also discussed the Health Related Board bill that will allow the use of screening panels for cases for the Office of General Counsel.

### **Proposed Rules (Vote to Send to Rulemaking Hearing)**

Mr. Kosten came before the Board to discuss new rules which were ready for roll call vote to send to rulemaking. The Board reviewed the following proposed rules to send to rulemaking hearing:

Rule 0460-1-.05, Continuing Education—Ms. Michelle Vaughn from the Metro Health Department addressed the Board and explained how this change would benefit the larger county health departments. After review of the proposed rule a motion was made by Ms. Beth Casey and seconded by Dr. Tabor to send rule 460-1-.05 with the following changes: Delete subpart (3) (d) 1.(x) in its entirety and substituting instead the following language, and adding the following language as new subparts (3) (d) 1. (x), (3)(d)1 (xi), and (3)(d) 1 (xii) to read:

**(3) (d)1.(x)** Tennessee Department of Health and its affiliated Metropolitan Health Departments, those being the Chattanooga/Hamilton Co. Health Department, the Davidson Co. Health Department, the Jackson-Madison Co. Health Department, the Knox Co. Health Department, Memphis the Shelby Co. Health Department, and the Sullivan County Health Department.

**(3)(d)1. (xi)** Tennessee Emergency Management Agency (TEMA)

**(3)(d)1. (xii)** Federal Emergency Management Agency (FEMA)

After discussion, all members present voted in the affirmative to send to rulemaking hearing.

Rule 0460-2-.03, Limited and Educational Limited Licensure Process. Ms. Smith explained the basis for this change. After review and discussion, Dr. Clark made a motion and it was seconded by Ms. Casey to send to rulemaking hearing without changes. All members present voted in the affirmative to send to rulemaking hearing.

Rule 0460-2-.06, Specialty Certification. After review and discussion a motion was made by Dr. Clark and seconded by Dr. Fitts to send to rulemaking hearing. All members present voted in the affirmative to send to rulemaking hearing with no changes.

Rule 0460-2-.07, Anesthesia and Sedation. Dr. Tabor stated that he thinks it is not necessary to require ACLS for the Limited Conscious Sedation permit, however, Dr. Clark disagreed. A motion was made by Dr. Clark and seconded by Ms. Casey to send the proposed rule to rulemaking hearing as written. After discussion the following members voted to accept the motion: Dr. Fitts, Dr. Clark, Dr. Greer, Ms Fox, and Ms. Casey. The following voted not to accept the motion Dr. Tabor and Dr. Douglass. The rule will go to rulemaking as written.

### **Rules - Roll Call Vote**

Rule 0460-2-.01 Licensure Process, 0460-2-.02 Dual Degree Licensure Process, 0460-2-.03 Limited and Educational Limited Licensure Process, 0460-3-.01 Licensure Process, 0460-3-.02 Criteria Approval Licensure Process, 0460-3-.03 Educational Licensure Process, and 0460-4-.02 Registration Process - After review and discussion, a motion was made by Dr. Clark and seconded by Dr. Fitts, to accept the rule as written to require criminal background checks for initial licensure. All members present voted in the affirmative to accept the rule as written.

Rule 0460-3-.09 Administration of local anesthesia. Several people from the gallery addressed the Board with concerns and comments on this rule. After hearing all comments and discussion Dr. Clark made a motion and was seconded by Ms. Casey to send the rules back to the Local Anesthesia Committee for a review and possible revisions. The motion also added the chairs of all five of the dental hygiene schools to the Committee in addition to Dr. Carl Sebelius from the University of Tennessee – Memphis and Dr. Charles Williams from Meharry School of Dentistry. All members present voted in the affirmative.

Rule 0460-1-.01 Definitions - adding definition of oral prophylaxis. Ms. Casey made the motion to change the proposed definition to the new CDT-5 definition and amend that only licensed dentist or dental hygienist may perform the oral prophylaxis. The motion was seconded by Ms. Fox. There was discussion by the Board and comments by the gallery. Ms. Casey explained that she had been asked by the Board to write a definition for oral prophylaxis. Several people in the gallery addressed the Board with their concerns about putting this definition in the rules and the Board reviewed the written comments submitted at the Rulemaking Hearing. The motion made by Ms. Casey and seconded by Ms. Fox was defeated; all members voting in opposition except Ms. Casey and Ms. Fox. Dr. Douglass made a motion, seconded by Dr. Greer, to reject the definition. The following members voted to reject the definition Dr. Douglas, Dr. Greer, Dr. Fitts, Dr. Clark, Dr. Tabor, Ms. Fox, and Dr. DeArmond. Ms. Casey voted in opposition to the motion. The motion carried and the definition will not be added to the rules. Dr. DeArmond requested that an article be written to be published in the Board and TDA Newsletters regarding the delegation of duties. He asked that a committee with representatives from the TDA, TDHA, and TDAA develop the article.

Dr. Clark made the motion, seconded by Dr. Douglass, to accept the rules are amended. All members voted to accept by roll call vote.

### **Report on Restorative and Prosthetic Courses**

Dr. James Turner, from the University of Tennessee – Memphis, handed out copies of the draft curriculum for the restorative and prosthetic functions courses. He updated the Board on the progress the University has made on the proposed courses. Dr. Russell Gilpatrick and Dr. Morris Robbins also made comments concerning the courses. After review of the proposed courses, the Board thanked the representatives of the University for working so hard to put the courses together.

### **Applicant Interviews**

**Jennifer Ann Roland, RDH-** SRTA scores more than five years old. The Board asked Ms. Roland her reason for licensure in Tennessee and where she thought she might be practicing. Ms. Casey made a motion and Dr. Clark seconded to approve Ms. Roland for licensure. All members present voted to approve.

**Lee Ann Shields, RDA -** Application referred to Board by consultant. When Ms. Shield submitted application to become a registered dental assistant in the State of Tennessee she answered no to the question concerning conviction of a misdemeanor or felony. After she had been approved to take the examination, it came to the attention of the Board's administrative staff that Ms. Shields had been convicted of a felony after making application. The Board questioned Ms. Shields about the conviction. Ms. Shields explained what happened and informed the Board that it had been expunged shortly after the conviction. After discussion Dr. Douglass made a motion, seconded by Dr. Clark, that the application is to be approved upon receipt of proof of the conviction being expunged. All members present voted to approve.

**Suzanne Marie Stolarz, DDS -** NERB scores more than five years old, pending medical malpractice suit in Indiana, and use of chemical substance. Dr. Stolarz explained the malpractice suit and the use of chemical substance and that she has not used since December 7, 2004. The Board asked Dr. Goodrich if he would advocate for the doctor. Dr. Goodrich says he would. Dr. Clark made a motion, seconded by Dr. Fitts, to approve the application. All members present voted to approve.

### **Canadian Programs**

Ms. Smith explained the reason for this being on the agenda. She directed the Board to the information in the Board books concerning the Canadian program. Dr. Morris Robbins discussed with the Board the accreditation of the program. After discussion Dr. Clark made a motion, seconded by Dr. Fitts, to accept the Canadian program as American Dental Association (ADA) accredited under a reciprocal agreement between the Canadian Dental Association (CDA) and the ADA. All members present voting in the affirmative.

### **Office of Investigations Report**

Ms. Denise Moran reviewed the report with the Board members. Ms. Moran there would be three new investigators added to the Office of Investigations. She discussed that now disciplinary action can be taken against a license for non-compliance with the privilege tax and child support. There were no questions.

### **Disciplinary Report**

Ms. Lea Phelps reviewed the report. There were no questions.

### **Concerned Dental Professional Committee**

Board reviewed the report and Dr. Goodrich discussed the audit which had recently been done by the State.

### **Fluoride Mouth Rinse Program**

Dr. Suzanne Hubbard explained the program to the Board. She explained that hygienist would be going to the schools to administer the fluoride mouth rinse and wanted to have the Board to determine whether or not this was allowed under the statute. After discussion Ms. Casey made a motion, seconded by Ms. Fox, to adopt policy to allow the hygienist to administer the fluoride mouth rinse. After discussion the Board adopted a policy which reads: It is the Policy of the Board that the Fluoride Mouth Rinse Project as developed & implemented by the Department of Health is an exemption as defined in 63-5-.107(10), which states "Personnel involved in research or developmental projects, approved by the Board, which are under the auspices and direction of a recognized educational institution or Department of Health". All members present voting in the affirmative to adopt this policy.

### **Health Related Boards Director's Report**

Ms. Robbie Bell directed the Board to the travel policy and regulations. She explained that all travel must be approved. She explained that the Health Related Boards would possibly be moving on September 1st to an office building in Metro Center. She also welcomed Dr. Joe Greer to the Board. There were no questions.

### **CERTIFICATION COURSES**

#### **Administration and Monitoring Nitrous Oxide Course**

**Chattanooga Area Dental Hygiene Society** - After review of the application and discussion Dr. Clark made a motion and Ms. Fox seconded to approve the course. All members present voting in the affirmative.

#### **Monitoring Nitrous Oxide Course**

**1<sup>st</sup> District Dental Society** - After review of the application and discussion Dr. Fitts made a motion and Dr. Clark seconded to approve the course. All members present voting in the affirmative.

**Tennessee Dental Assistants Association** - After review of the application and discussion Dr. Clark made a motion and Ms. Fox seconded to approve the course. All members present voting in the affirmative.

#### **Coronal Polishing**

**Tennessee Dental Assistants Association** - After review of the application Ms. Fox made a motion and was seconded by Dr. Fitts to approve the course. After discussion of the application it was noted that they had brushes listed as one of the objectives, which is not allowed. Dr. Clark made a motion and was seconded by Dr.

Fitts to provisionally approve the course upon the use of brushes being taken out of the syllabus. All members present voting in the affirmative.

**The University of Tennessee Health Science Center** - After review of the application and discussion Dr. Fitts made a motion and was seconded by Dr. Douglass to approve the course. All members present voting in the affirmative.

### **Sealant Application Certification**

**Tennessee Dental Assistant Association** - After review of the application and discussion Ms. Fox made a motion and was seconded by Ms. Casey to approve the course. All members present voting in the affirmative.

### **Assistant Commissioner's Report**

Ms. Judy Eads addressed the Board. She let the Board know that there were several new attorneys in the Office of General Council for the Department of Health. She also talked about the move and the new updates to the computer system we use to license new applicants.

### **Financial Report**

The Board was directed to the report in the Board materials provided. After review there were no questions.

### **Director's Report**

Mr. Paul David, Director of the Board, presented a short report to the Board. The information in the report was based on information that will be discussed in regular business. Mr. David gave a report on the Education Committee meeting held May 27, 2005. He welcomed Dr. Greer to the Board.

### **Office of General Counsel Report**

Ms. Presley directed the Board to the report provided in the notebooks. Ms. Presley reviewed the report. The Board members had no questions.

### **Correspondence**

Board reviewed and discussed the correspondence in notebooks. Dr. Douglass commented on the letter concerning specialty assistants. He does not feel that there is a need for the State of Tennessee to have specialty assistants. The Board members agree with Dr. Douglass.

### **ACLS/PALS**

Ms. Smith explained to the Board that there needs to be an interpretation of the rule concerning ACLS/PALS. Do ACLS/PALS meet the requirements for CPR as written in the statutes? After discussion by the Board, Ms. Casey made a motion and was seconded by Ms. Fox that a policy be written to accept ACLS/PALS in place of CPR. Ms. Bell was asked to help with the language for the policy. All members present voted for the policy.

### **Lapsed License Policy**

Mr. David asked that the Board clarify which licensees who have certifications, such as Sealant Application, Administering and Monitoring Nitrous Oxide, Monitoring Nitrous Oxide, and Sedation Permits, are eligible for the policy when reinstating their license. He explained the reason for this clarification. After discussion the Board decided that if a dental assistant or dental hygienist has worked for less than four (4) years, which is two (2) renewal cycles, and had a certification on their lapsed license, they would be eligible for the policy. The supervising dentist listed on the employment history of the application would receive either a letter of concern, if it was a first offense, or a letter warning for the second offense and the fine of \$1,000. If a dental assistant or dental hygienist performs any of the certifications and they are not certified for that certification the application is to be sent to investigations for formal disciplinary action. If a dentist practices on a lapsed license and indicates that he/she performed sedation they will be eligible for the policy if they have a sedation permit. The license must not have been lapsed for more than four (4) years, which is two (2) renewal cycles. If a dentist

indicates that he/she performed sedation while his/her license was lapsed and he/she has not been granted a sedation permit the application will be sent to investigations for formal disciplinary action.

### **ADEX Exam**

Dr. DeArmond reported on the ADEX National Exam and the meeting he attended. The Board discussed the exam.

### **Tennessee Board of Dentistry Specialty Liaisons**

The Board appointed the following members to be Specialty Liaisons: Endodontics - Dr. Douglass, Oral & Maxillofacial Surgery - Dr. Clark, Orthodontics - Dr. Greer, Pedodontics - Dr. Tabor, Prosthodontics - Dr. DeArmond, and Periodontics - Dr. Fitts.

### **Committee Replacements**

The Board discussed replacements for committees in which the Board is involved. Dr. Douglass will now be on the Controlled Substance Monitoring Committee; Dr. Clark will replace Dr. Nally on the SRTA Committee. Dr. Clark made a motion and was seconded by Dr. Fitts to allow Dr. DeArmond to appoint members to any of the committees as needed. All members present voting in the affirmative.

### **Allowable Equipment and Scope of Training of Auxiliaries**

Ms. Smith explained the reason for the clarification of allowable equipment and scope of training of auxiliaries. After discussion the Board decided that unless the equipment or procedure is specifically named in the rule that it is not allowed, (i.e. prophylaxis jets or air polishers).

### **Ratifications**

After review Ms. Casey made motion and seconded by Dr. Clark to ratify all items involving dental licensure and waivers in tab 20 of the Board books. All members present voted in the affirmative.

After review Ms. Casey made a motion and seconded by Dr. Clark to ratify all items involving dental hygiene licensure and waivers in tab 21 of the Board books. All members present voted in the affirmative.

After review Dr. Clark made a motion and seconded by Ms. Casey to ratify all items involving dental assistants in tab 22 of the Board books. All members present voted in the affirmative.

After review Dr. Tabor made a motion and seconded by Dr. Greer to ratify all items involving continuing education courses in tab 23 of the Board books. All members present voted in the affirmative.

After review Ms. Casey made motion and seconded by Dr. Clark to ratify all items involving individual continuing courses in tab 24 of the Board books. All members present voted in the affirmative.

After review Ms. Casey made motion and seconded by Dr. Clark to approve and accept the St. Louis Community College as equivalent to the Tennessee approved Administration and Monitoring Nitrous Oxide course. All members present voted in the affirmative.

## **May 13, 2005**

The Board's President, Dr. Eben A. DeArmond, determined a sufficient number of Board members were in attendance to constitute a quorum. The quorum was determined by the presence of Dr. DeArmond, Dr. Douglass, Dr. Fitts, Ms. Casey, Dr. Clark, Ms. Fox, Dr. Greer, and Dr. Tabor. Ms. Fullilove, Dr. Nally, and Mr. Wildasin were not present. Therefore, the meeting of the Tennessee Board of Dentistry was called to order at 9:05 AM.

### **Contested Case Hearing**

**Donna Pearson, RDH,** Before Ms. Pearson's case was heard by the Board, Ms. Beth Casey recused herself from the proceedings and left the room. After discussion and review of all testimony and evidence that was presented the Board found Ms. Pearson guilty of unprofessional, dishonorable or unethical conduct;

violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the Board issued pursuant thereto, or any criminal statute of the State of Tennessee; making false or misleading statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or in being guilty of fraud or deceit in the practice of dental hygiene; conviction of a felony, conviction of any offense under state or federal drug laws or conviction of any offense involving moral turpitude. The Board voted to place the license on probation for an additional five (5) years; must maintain advocacy of Cornerstone for duration of probation; must appear before the Board annually to report on compliance; assessed case costs. All members presented voting in the affirmative.

**Oscar D. Scruggs, III, DDS** –Before the case was heard Dr. DeArmond disclosed that he lived in the adjoining community but had no knowledge of the case. He stated that he felt he could be fair in his decision. After review and discussion of all evidence and testimony presented the Board found Dr. Scruggs guilty of unprofessional or dishonorable conduct; violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the Board issued pursuant thereto, or any criminal statute of the State of Tennessee; habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants, such as, but not limited to, nitrous oxide sedation, in such a manner as to adversely affect the person's ability to practice dentistry, dental hygiene or as a registered dental assistant. The Board voted to place the licensee on Probation for two years; must gain advocacy of the Concerned Dental Professionals Committee by June 25, 2005, or an equivalent treatment program approved by the Board and maintain that advocacy for the duration of the probationary period; assessed case costs; as well as surrender his DEA certificate. All Board members voting in the affirmative.

#### **Remanded to the Board**

**Deji Ogundiya, DDS** - Pursuant to an Agreed Order for Partial Remand, the matter was remanded from the Chancery Court of Davidson County, Tennessee, to the Tennessee Board of Dentistry for the limited purpose of permitting the Board to: 1) Consider proof concerning reversal by the Tennessee Court of Criminal Appeals of petitioner's original criminal conviction for three counts of felony sexual battery, as well as petitioner's subsequent no contest plea to one count of sexual battery, a Class E felony, and the sentence imposed; 2) Hear and consider argument of counsel relative to the modified conviction; and 3) Reconsider its previous Order and consider amending same, including its finding of facts and conclusion of law, in light of the modified conviction. Laurie Doty represented the State of Tennessee and Mr. Frank Scanlon of the Nashville Bar represented Dr. Ogundiya. After review of all testimony and evidence the Board voted to amend the order to reflect the plea of no contest and to leave the five (5) years probation.

#### **Letter of Reprimand**

**Terri Bailey, RDA** - Ms. Bailey practiced on an expired license. Ms. Casey made a motion and Ms. Fox seconded to accept the letter of reprimand and assess \$300 in civil penalties. All members presented voting in the affirmative.

**Dolores Williams, RDA** - Ms. Williams practiced on an expired license. Ms. Casey made a motion and was seconded by Dr. Clark to accept the letter of reprimand and assess \$500 in civil penalties. All members present voting in the affirmative.

#### **Reports to the Board**

**Louis Bogard, DDS** - Ms. Tamenna Qurishi, Attorney for the State, distributed copies of the Boards previous order. Respondent was present. Dr. Bogard addressed the Board. After review of the documents and discussion all members present voted that all requirements of the order had been met and that the civil penalties be canceled.

**Gertude Lowe** - Ms. Lowe was not present at the meeting. Ms. Tamenna Qurishi, Attorney for the State, distributed copies of the Boards previous orders. She also informed the Board that Ms. Lowe had shown proof that Mid-South had been sold. After discussion all members present voted that all requirements of the order had been met and that the civil penalties be canceled.

**Contested Cases Continued**

**Mark Hardison, DDS** –Ms. Laurie Doty, Attorney, represented the State of Tennessee; Mr. Steve Waldren, Attorney, represented the respondent. Ms. Doty and Mr. Waldren met in conference with the Judge. After they returned to the Board meeting Dr. Fitts made motion and was seconded by Dr. Clark that due to the lateness of the hour that they continue the case at the next scheduled Board meeting on September 21-23, 2005. All members present voted in the affirmative.

Motion to adjourn the meeting of the Tennessee Board of Dentistry was made and seconded at 5:37 PM.